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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,793	06/19/2001	Joel Zdepski	5266-03400	6907
44015	7590	07/01/2005	EXAMINER	
OPTV/MEYERTONS THE CHASE BUILDING 700 LAVACA, SUITE 800 AUSTIN, TX 78701			SHANG, ANNAN Q	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,793

Applicant(s)

ZDEPSKI, JOEL

Examiner

Annan Q. Shang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/16/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11, 19-28, 30-44, 46-63 and 65-68 are rejected under 35 U.S.C. 102(b) as being anticipated by **Kikinis (5,929,849)**.

As to claim 1, note the **Kikinis** reference figures 1-2C, discloses integration of dynamic Universal Resource Locators (URL) with television presentations and further discloses a method of script usage in an interactive television system, comprising:

A CPU-19 or 80486 "a script usage mechanism," within Set-top box (STB) 11, coupled to Receivers or Antennas 15-17 and 28 (fig. 1 and 5, lines 34-55), executes an interactive application corresponding to a program; to display a BMW emblem or icon "opportunity for display of added content" to a user while watching a television show, to notify the user of advertisement or additional content relating to the television program; to give the user an opportunity to interact with the BMW emblem or icon 57 "the script" (fig. 2A) to retrieve additional information (col. 6, lines 1-12, line 33-col. 7, line 9;

Upon the user interaction to the BMW icon "providing input corresponding to the opportunity..." CPU-19 retrieves the advertisement or added content in response to detecting the input to provide the added in place of the television program being viewed

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(figs. 2A, 2C and col. 7, line 28-col. 8, line 1+), note that the URL is embedded in the data stream (fig. 2B and col. 7, lines 18-27) which is receive via CATV or wireless and the additional information is retrieve on a Website on the Internet via Modem 37, ISDN 39 or stored content on HDD 45 or CD-ROM 43.

As to claims 2-6, Kikinis further discloses conveying the BMW emblem or icon from CPU-19 "a network communications operator" receiving the BMW emblem or icon, and executing the BMW emblem or icon within Receiver or STB 11 (col. 6, line 1-12 and line 33-col. 7, line 28); the further comprises receiving/retrieving the television presentation, BMW advertisements or other advertisements "added content," and BMW emblem or icon on a CD-ROM 43, HDD 45, DRAM 49, ROM 47, etc., (col. 5, lines 56-col. 6, line 12), where the CPU 19 receives the interactive application and the BMW emblem or icon from CATV Headend, a television broadcaster via Antennas 15-16 and 28 (col. 5, lines 33-67) or a Web Content Provider via Modem 35 or ISDN 39 (col. 6, lines 1-12, line 33-col. 7, line 1+).

As to claim 7, Kikinis further discloses where the icon is configured to provide the input corresponding to the opportunity at a predetermined time (col. 6, line 64-col. 7, line 27, line 38+).

As to claim 8 and 9, Kikinis further discloses storing the input in a message queue and the interactive application determines whether the input exists by accessing the message queue (col. 7, line 38-col. 8, line 22).

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As to claim 10, Kikinis further discloses where the input indicates a particular level of advertisement provided (col. 9, line 44-col. 10, line 10), note that the user upon interacting to the icon receives different levels of the advertisements.

As to claim 11, Kikinis further discloses displaying the advertisements on TV or Monitor (col. 5, lines 42-55).

As to claim 19, the claimed "a carrier medium comprising program instructions, where the program instructions are executable to..." contains the same structural elements as rejected claim 1.

Claim 20 is met as previously discussed with respect to claim 2.

Claim 21 is met as previously discussed with respect to claim 4.

Claim 22 is met as previously discussed with respect to claim 5.

Claim 23 is met as previously discussed with respect to claim 6.

Claim 24 is met as previously discussed with respect to claim 7.

Claim 25 is met as previously discussed with respect to claim 8.

Claim 26 is met as previously discussed with respect to claim 9.

Claim 27 is met as previously discussed with respect to claim 10.

Claim 28 is met as previously discussed with respect to claim 11.

As to claim 30, Kikinis further discloses where the icon is downloaded (col. 6, lines 6-12, line 50-col. 7, line 27).

As to claim 31, Kikinis further discloses where the icon is dynamically created (col. 6, lines 6-12, line 33-col. 7, line 27).

Claim 32 is met as previously discussed with respect to claim 8.

As to claim 33, Kikinis further discloses where the icon is configured to store the input in the queue in a repeated manner (col. 6, lines 6-12, line 33-col. 7, line 27)

As to claim 34, the claimed "a script usage device (set-top box 'STB' 11) comprising..." contains the same structural elements as rejected claim 1.

Claim 35 is met as previously discussed with respect to claim 2.

Claim 36 is met as previously discussed with respect to claim 3.

Claim 37 is met as previously discussed with respect to claim 5.

Claim 38 is met as previously discussed with respect to claim 5.

Claim 39 is met as previously discussed with respect to claim 6.

Claim 40 is met as previously discussed with respect to claim 7.

Claim 41 is met as previously discussed with respect to claim 8.

Claim 42 is met as previously discussed with respect to claim 9.

Claim 43 is met as previously discussed with respect to claim 10.

Claim 44 is met as previously discussed with respect to claim 11.

Claim 46 is met as previously discussed with respect to claim 30.

Claim 47 is met as previously discussed with respect to claim 31.

Claim 48 is met as previously discussed with respect to claim 8.

Claim 49 is met as previously discussed with respect to claim 32.

As to claim 50, note the **Kikinis** reference figures 1-2C, discloses integration of dynamic Universal Resource Locators (URL) with television presentations and further discloses a system (set-top box 'STB' 11) for automating user input in an interactive television system, comprising:

the claimed "a first source, where the first source is configured to convey and interactive application to a receiver" and "second source..." are met by the television TV program source via 15-17 and 28 and BMW emblem or icon respectively (figs. 1-2 and col. 6, line 41-col. 7, line 9), which are received via receivers 15-17 and 28 and configured to convey an interactive application to STB 11 "a receiver" where the BMW emblem or icon "added content" is display during an in-progress TV program to enable the user to interact to retrieve additional information on a website "second source" via Modem 35 or ISDN 39 or stored content on HDD 45 or CD-ROM 43; and

STB 11 coupled to Antennas 15-17 and 28 and Modem or ISDN 39 or stored content on HDD 45 or CD-ROM 43, where STB 11 is configured to execute BMW emblem or icon "a script" and where STB 11 is configured to provide the related content in response to detecting the user's interaction to the BMW icon via a remote control or a pointer, which indicates to CPU-19 to retrieve the related content and display it accordingly (figs. 2A, 2C and col. 7, line 28-col. 8, line 1+).

Claim 51 is met as previously discussed with respect to claim 2.

Claim 52 is met as previously discussed with respect to claim 3.

Claim 53 is met as previously discussed with respect to claim 2.

Claim 54 is met as previously discussed with respect to claim 2.

Claim 55 is met as previously discussed with respect to claim 6.

Claim 56 is met as previously discussed with respect to claim 4.

Claim 57 is met as previously discussed with respect to claim 5.

Claim 58 is met as previously discussed with respect to claim 6.

Claim 59 is met as previously discussed with respect to claim 7.

Claim 60 is met as previously discussed with respect to claim 8.

Claim 61 is met as previously discussed with respect to claim 9.

Claim 62 is met as previously discussed with respect to claim 10.

Claim 63 is met as previously discussed with respect to claim 11.

Claim 65 is met as previously discussed with respect to claim 30.

Claim 66 is met as previously discussed with respect to claim 31.

Claim 67 is met as previously discussed with respect to claim 8.

Claim 68 is met as previously discussed with respect to claim 32.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-18, 29, 45 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kikinis (5,929,849)** in view of as applied to claims 1, 20, 35 and 51 above **Balakrishnan et al (6,473,903)**.

As to claims 12, 29, 45 and 64 Kikinis teaches displaying advertisements and permitting the user to flip through different levels of the advertisements, but fails to explicitly teach indicating default script usage preferences and storing the preferences.

However, note the **Balakrishnam** reference discloses method and system for implementing interactive broadcast programs and commercials displays multimedia hotspots of commercials, allows a user to selected a desired commercial and stores and displays default commercials (col. 3, line 20-col. 4, line 24 and col. 5, line 54-col. 6, line 9).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Balakrishnam to display and store preferences to permit the Receiver to switch to stored default preferences, thereby providing the user with desired commercials based on the user's interest.

As to claim 13, Kikinis further discloses executing the icon (col. 6, line 1-12 and line 33-col. 7, line 28)

As to claim 14, Kikinis further discloses where the icon is downloaded (col. 6, lines 6-12, line 50-col. 7, line 27).

As to claim 15, Kikinis further discloses where the icon is dynamically created (col. 6, lines 6-12, line 33-col. 7, line 27).

Claim 16 is met as previously discussed with respect to claims 1-2.

Claims 17-18 are met as previously discussed with respect to claims 8-9.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Alexander et al (6,177,931) disclose systems and methods for displaying and recording control interface with television programs, video, advertising information and program scheduling information.

Ellis et al (2004/0194131) disclose television system with scheduling of advertisements.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**.



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